

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of HAROLD LEE WILLIAMS, JR.,  
Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

HAROLD DOUGLAS WILLIAMS,

Respondent-Appellant,

and

CHARLOTTE ANN CUNNINGHAM,

Respondent.

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In the Matter of HAROLD LEE WILLIAMS, JR.,  
Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee

v

CHARLOTTE CUNNINGHAM,

Respondent-Appellant,

and

HAROLD DOUGLAS WILLIAMS,

Respondent.

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UNPUBLISHED  
December 2, 2003

No. 248011  
Wayne Circuit Court  
Family Division  
LC No. 87-263852

No. 248028  
Wayne Circuit Court  
Family Division  
LC No. 87-263852

Before: Cooper, P.J., and Markey and Meter, JJ.

PER CURIAM.

In these consolidated appeals, respondents Harold Williams and Charlotte Cunningham appeal as of right from the termination of their parental rights to the minor child under MCL 712A.19b(3)(b), (g), and (j). We affirm. These appeals are being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding clear and convincing evidence to establish the statutory grounds for termination of respondent mother's parental rights under MCL 712A.19b(3)(b), (g), and (j). MCR 5.974(I), now MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Respondent mother had a serious and long-standing problem of cocaine and alcohol abuse. Baby Harold was born positive for cocaine, as were two of respondent mother's other children. Respondent mother's rights to two of her other children were terminated, while four other children were made temporary wards of the court. A parent's treatment of other children is relevant in predicting probable treatment of a child. See *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001). Respondent mother failed to seek substance abuse treatment until five days before the hearing, even though the court stated she could visit with the child if she took this step.

We also find the trial court did not clearly err in finding clear and convincing evidence to terminate respondent father's parental rights under MCL 712A.19b(3)(g) and (j). Respondent father was on a tether for a probation or parole violation; he had been a fugitive for seven years, and he and respondent mother had had their rights to another child terminated under MCL 712A.19b(3)(a)(ii) (desertion), (c)(i) (conditions of adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm if child returns to parents). While respondent father did have housing and employment, he failed to avail himself of the opportunity to visit the child because he would not undergo a substance abuse evaluation. He had a history of drug use and drug selling. Respondent father's primary plan was to have respondent mother care for the baby while he worked. Although he did say the mother would have to stay away if she was using drugs, he stated that on past occasions he had been unaware of her drug use.

Further evidence failed to show that termination of respondents' parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *Trejo, supra* at 356-357. Respondent mother's serious alcohol and drug problem proved resistant to change in the past, and we agree with the trial court that it would not be in Harold's best interests to wait for amelioration of a problem that respondent mother had failed repeatedly to conquer. Harold also cannot wait for respondent father to shed his tether, obtain substance abuse evaluation, and find appropriate child care. The child is very young and needs a stable, safe, permanent home. Here, a bond between baby Harold and his parents did not begin to develop because the parents were unwilling to take the steps necessary to have visitation.

Finally, we reject respondent mother's argument that she was denied the effective assistance of counsel when her attorney failed to object to the FIA's presentation of its entire case through the testimony of respondent mother and respondent father. This issue was not preserved

for appellate review because it was not argued in a motion for a new trial. The issue also clearly lacks merit. Using the criminal appeal as an analogy, a parent is denied the right to the effective assistance of counsel when counsel's performance was defective, prejudiced the parent, and deprived the parent of a fair trial. See *Strickland v Washington*, 466 US 668, 687; 104 S Ct 2052; 80 L Ed 2d 674 (1984), and *In re Nash*, 165 Mich App 450, 458; 419 NW2d 1 (1987). To show prejudice, the appellant parent must show that but for counsel's error there was a reasonable probability the result would have been different. *People v Shively*, 230 Mich App 626, 628; 584 NW2d 740 (1998).

Respondent fails to specify *how* her attorney rendered ineffective assistance. See *In re Nash*, *supra* at 158 (discussing inadequate briefing). Nevertheless, turning to the merits of the argument in the present case, respondent mother was not prejudiced or denied a fair trial by her attorney's failure to object. A child protective proceeding is a civil action in which a party-opponent may be called as an adverse witness. See MCL 712A.1; *In re Stricklin*, 148 Mich App 659, 666; 384 NW2d 833 (1986). A witness who is not a criminal defendant has only the privilege of not giving an incriminating answer to a specific question. *People v Guy*, 121 Mich App 592, 609; 329 NW2d 435 (1982). The privilege against self-incrimination is not one of the rights the trial judge must advise the parent he or she is giving up by pleading to the allegations in a petition. MCR 5.971(B)(3), now MCR 3.971(B)(3). Furthermore, many of the allegations against respondent mother, i.e., at least those involving prior terminations, were readily provable through the court's own records and files. Other facts, such as the baby being born positive for cocaine, were uncontroverted, proven, or admitted in earlier hearings. Thus, any objection to the procedure employed by FIA would have been futile. Respondent mother was not denied the effective assistance of counsel.

Affirmed.

/s/ Jessica R. Cooper  
/s/ Jane E. Markey  
/s/ Patrick M. Meter